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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,907	01/18/2002	Willie Stroup	02514.0007.NPUS01	5808

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EXAMINER

MENON, KRISHNAN S

ART UNIT PAPER NUMBER

1723

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,907

Applicant(s)

STROUP, WILLIE

Examiner

Krishnan S Menon

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-15 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Riise (US 4,632,764) in view of Bussey Jr et al (US 6,385,791 B1).

Riise teaches an apparatus for reducing liquid in a liquid-solid mixture comprising a holding chamber (col 2 lines 7-63; figures) having four walls and a floor, made of concrete (col 3 line 40) and having vehicular access (abstract; col 3 lines 54-60); conduit for directing liquid away (col 4 lines 1-12, 20-30), a filter separating the chamber and conduit (col 4 lines 1-12), a membrane forming an airtight cover (55-fig 5, col 7 lines 14-31), and means for reducing pressure in the conduit (col 4 lines 1-12).

Riise does not teach a "ramp" for vehicular access. However, the vehicular access provided would be equivalent because the prior art element performs the identical function specified in the claim in substantially the same way, and produces substantially the same results as the corresponding element disclosed in the specification. *Kemco Sales, Inc. v. Control Papers Co.*, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000)

Riise also does not teach an airtight membrane which is in contact with the liquid and solids mixture. Bussey teaches a substantially airtight membrane covering a body of liquid, and which is in contact with the liquid surface (see figures). It would be obvious to one of ordinary skill in the art at the time of invention to use the teaching of Bussey in the teaching of Riise to have a cover that is in contact with the liquid-solid mixture surface to prevent evaporation of the liquid, and to provide solar energy heating as taught by Bussey (col 2 lines 65-68, col 1 lines 1-23) and Riise (col 7 lines 14-31)

Claims 2-5 add the further limitation of heating means, see col 2 line 38-45, fig 4a; col 5 lines 44-50; col 6 lines 1-33). Claim 5 – heating means disposed in membrane – col 7 lines 14-30

1. Claims 6-8, and 12-15 are rejected under 35 USC 103 (a) as being unpatentable over Riise (US 4,632,764) in view of Bussey Jr et al (US 6,385,791 B1) as in claim 2 above and further in view of Winter et al (US 5,277,814)

Instant claims add further limitations which Riise in view of Bussey does not teach, but Winter teaches as follows: The apparatus further comprises air injectors disposed within the chamber as in instant claims 6 and 7 (col 5 lines 60-68; col 2 lines 27-40); temperature monitoring and control means as in instant claims 12 and 13 and the temperature is maintained between 100 and 200 °F (col 2 lines 62-68; col 7 lines 17-40) as in instant claim 15. It would be obvious to one of ordinary skill in the art at the time of invention to use the teachings of Winter in the teaching of Riise in view of Bussey to provide means for monitoring the temperature and providing aeration when

the solid liquid mixture to be treated is water containing organic wastes as taught by Winter (see abstract), and for providing air for loosening up the accumulation as taught by Riise (col 7 lines 42-45)

Re claims 8, Riise also teaches air injection (col 7 lines 42-45; col 9 line 64) through the membrane. Regarding claim 14, see *In re Lindberg*, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.).

2. Claims 9-11 are rejected under 35 USC 103(a) as unpatentable over Riise (US 4,632,764) in view of Bussey Jr et al (US 6,385,791 B1) and Winter (814) as applied to claim 8 above, and further in view of Eichler (US 5,118,427).

Riise and Winter teaches agitating (Riise – col 6 lines 20-33; col 9 line 60-64; Winter: col 2 line 29), but Riise in view of Bussey and Winter does not teach vibrating means for agitating the mixture as in claim 9. Eichler (427) teaches vibrating means for agitating (col 3 lines 17-45). It would be obvious to one of ordinary skill in the art at the time of invention to vibrate the membrane as taught by Eichler in the teachings of the separating apparatus of Riise in view of Bussey and Winter in view of Winter to keep the liquid mixture viscosity low for faster removal of liquids.

Re claims 10 and 11, Riise teaches moisture collection tank (col 4 lines 1-11), and Winter teaches moisture collecting tank disposed to receive liquids as in instant claims 10 and 11 (14, 15 and 23 fig 1).

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

This is a non-final first action after an RCE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Krishnan Menon
Patent Examiner


W. L. WALKER
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